

**Maine Revised Statutes**  
**Title 18-A: PROBATE CODE**  
**Article :**

**§5-303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON**

(a). The incapacitated person or any person interested in his welfare may petition for a finding of incapacity and appointment of a guardian. The person nominated to serve as guardian shall file a plan which, where relevant, shall include, but not be limited to, the type of proposed living arrangement for the ward, how the ward's financial needs will be met, how the ward's medical and other remedial needs will be met, how the ward's social needs will be met and a plan for the ward's continuing contact with relatives and friends.

[ 1985, c. 440, §§1, 13 (AMD) .]

(b). Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person is already represented by an attorney, the court shall appoint one or more of the following: a visitor, a guardian ad litem or an attorney to represent the allegedly incapacitated person in the proceeding. If it comes to the court's attention that the allegedly incapacitated person wishes to contest any aspect of the proceeding or to seek any limitation of the proposed guardian's powers, the court shall appoint an attorney to represent the allegedly incapacitated person. The cost of this appointment of the visitor, guardian ad litem or attorney must be paid from the estate of the allegedly incapacitated person if the court is satisfied sufficient funds are available. The person alleged to be incapacitated must be examined by a physician or by a licensed psychologist acceptable to the court who shall submit a report in writing to the court, providing diagnoses, a description of the person's actual mental and functional limitations and prognoses.

[ 1995, c. 203, §1 (AMD) .]

(c). If appointed, the visitor or guardian ad litem shall interview the allegedly incapacitated person and the person who is seeking appointment as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will reside if the requested appointment is made. The visitor or guardian ad litem shall submit a report in writing to the court. The visitor or guardian ad litem shall explain the meaning and possible consequences of the requested appointment to the allegedly incapacitated person and inquire if the person wishes to attend the hearing, to contest any aspect of the proceeding or to seek any limitation of the proposed guardian's powers. If the visitor or guardian ad litem determines that the person wants to contest any issue or seek a limited appointment and that the person does not have counsel of that person's own choice, the visitor or guardian ad litem shall so indicate in the written report to the court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see and hear all evidence bearing upon the person's condition. The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the physician, the visitor and the guardian ad litem. The issue may be determined at a closed hearing if the person alleged to be incapacitated or the person's counsel so requests.

[ 1995, c. 203, §1 (AMD) .]

(d). Except as otherwise provided by law, all reports and plans required by this section shall be submitted to the court, and all parties of record, at least 10 days before any hearing on the petition.

[ 1985, c. 440, §§1, 13 (NEW) .]

(e). When there has been an allegation of abuse, neglect or exploitation of an allegedly incapacitated person in a petition or other papers filed with the court, the court may hear the testimony of the allegedly incapacitated person in chambers with only the guardian ad litem and counsel present if the statements made are a matter of record.

[ 1989, c. 858, §2 (NEW) .]

#### SECTION HISTORY

1979, c. 540, §1 (NEW). 1983, c. 176, §A7 (AMD). 1983, c. 241, §1 (AMD). 1983, c. 816, §A8 (AMD). 1985, c. 440, §§1,13 (AMD). 1989, c. 858, §2 (AMD). 1993, c. 652, §1 (AMD). 1995, c. 203, §1 (AMD).

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